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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,476	03/28/2002	Gerhard Gumpoltsberger	ZAHFRI P422US	1029
20210	7590	02/23/2004	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			ABDELNOUR, DENNIS J	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/089,476	GUMPOLTSBERGER, GERHARD	
	Examiner	Art Unit	
	Dennis J. Abdelnour	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 13-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

The following action is in response to Amendment B received February 3, 2004, Paper

No. 7. Claims 13-24 are pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation “using the at least two forward gears and the at least one reverse gear occurs by...”. The language is unclear – for example, the transmission is not using the gears, the transmission is producing gears. It sounds like the two forward gears are actual gears (i.e. with teeth), as opposed to drive ranges (which they are). Also, the forward and reverse gears do not occur by, but rather when the shafts rotate in the same or opposite directions.

Claim 21 recites the limitation “power-shiftably designed” in line 3. This limitation is unclear and ambiguous. The claim boundary cannot be ascertained from the language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13 and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueda et al. (USPN 5,820,510).

Ueda et al. discloses in Figure 1 a continuously variable transmission comprising: a variator transmission 2, a planetary gear transmission 3, an input shaft connected to an input gear 22, and an output shaft 15.

The planetary gear transmission is capable of a low forward drive, a high forward drive, and a reverse drive. In the planetary gear transmission 3, the input shaft and the output shaft 15 rotate in opposite directions during forward drive and in the same direction during reverse drive.

The variator transmission comprises a toroidal type continuously variable transmission having a variable transmission input shaft 6 and a variable transmission output shaft at gear 14. The variator input shaft 6 is parallel to the output shaft 15. In addition, the input shaft at gear 22 and the output shaft 15 are disposed coaxially. The two forward drive ranges are shiftable and have an overlapping range.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-15 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda et al. in view of Takada et al. (USPN 4,682,518).

Ueda et al. has been described in the 102 rejection above. Ueda discloses a one-way toroidal CVT coupled with a planetary transmission. Ueda does not disclose a cone pulley belt drive continuously variable transmission.

Takada et al. discloses a cone pulley belt drive 1 in combination with a planetary transmission. The belt drive includes input shaft 8, and output shaft 10.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ueda with the cone pulley belt drive as taught by Takada in order to reduce the number of spur gears present in the transmission which decreases transmission weight.

Response to Arguments

7. Applicant's arguments with respect to claims 13-24 have been considered but are moot in view of the new ground(s) of rejection.

The Ueda reference does not use an additional shaft between the output shaft and the differential. The output shaft 15 acts on the differential 4 through one spur gear – output gear 23.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis J. Abdebnour whose telephone number is (703) 305-5309. The examiner can normally be reached on Monday-Friday, 8:00-5:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dja

February 18, 2004

Charles A. Marmor 2/18/04
CHARLES A. MARMOR
SUPERVISORY PATENT EXAMINER
ART UNIT 3681